IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 8935 of 1999
with
SPECIAL CIVIL APPLICATION No 8938 of 1999

For Approval and Signature:

Hon'ble MR.JUSTICE D.H.WAGHELA Sd/-

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

1 to 5 No

ANAND KHEDA JILLA FACTORY KAMDAR UNION
Versus
STATE OF GUJARAT

Appearance:
MR PC MASTER for Petitioner
MS DS PANDIT AGP for Respondent No. 1
NOTICE SERVED for Respondent No. 2,4
MR VB PATEL with MR DEEPAK V PATEL for Resp. No. 3
MR DS VASAVADA for Respondent No. 5

CORAM : MR.JUSTICE D.H.WAGHELA

Date of decision: 12/07/2001

ORAL JUDGEMENT

1. RULE. The learned counsel for the respondents waive service of Rule. By consent and joint request of the learned counsel for the parties, these maters were taken up for final disposal today.

2. By way of these petitions under Articles 226 and 227 of the Constitution, the petitioner, a trade union claiming to have as its members the employees employed in the industry of the respondent No.3, has made a grievance that the impugned orders in Conciliation Cases Nos.107/99 and 108/99 were made without hearing the petitioner. It was sought to be argued at length that the petitioner union had a case in respect of which conciliation proceedings ought to have been held in accordance with law and appropriate report ought to have been made to the Government. According to the submission of the learned counsel for the petitioner, the demands raised by the petitioner union were, in fact, already admitted for the purpose of conciliation and accordingly the conciliation case numbers were given.

3. The learned counsel appearing for the respondent No.3 - employer submitted that even on the date of first raising the demand by the petitioner union, there was in existence a binding settlement arrived at during the course of conciliation and registered under the provisions of Section 12 (3) of the Industrial Disputes Act. Therefore, there was no occasion to hold any conciliation proceeding and the contentions and allegations made on behalf of the petitioner were absolutely frivolous which did not deserve holding of the conciliation proceedings. Thus, the impugned orders were sought to be justified as legal and proper orders which did not require any interference.

4. Having heard the learned counsel at some length, it was realized that the only grievance which was seriously pressed on behalf of the petitioner was that before passing the impugned orders, they were not heard. The authority which had passed the impugned orders was present as a party-respondent in these proceedings and had made a statement that the conciliation officer concerned was prepared to hear the petitioner union, the respondent No.3 - employer as also the respondent No.5.

5. In the peculiar facts and circumstances, without entering into the factual controversies or pronouncing on whether the demands and disputes of the petitioner union were required to be admitted in conciliation, the petitions are allowed for the limited relief of granting an opportunity of being heard to the petitioner as also the other necessary parties to the proceedings including the respondent No.3 - employer and the respondent No.5 trade union. There is a limited consensus that after such opportunity of hearing being granted, it would be

open for the conciliation officer to pass appropriate orders in the Conciliation Cases Nos.107/99 and 108/99 and that this order shall not be treated or cited as a precedent in any other case. The petitions having not been pressed for any other relief, they are partly allowed in terms as above and the Rule is made absolute to the aforesaid extent with no order as to costs. It is expected that the necessary proceedings shall be expeditiously taken up by the conciliation officer concerned for hearing as ordered hereinabove and expeditiously concluded preferably within three months from today.

Sd/-

12.7.2001 (D.H.Waghela, J.)

(KMG Thilake)